IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA NO. 2463 of 2005(O&M)
Date of decision. January 29,2007

Birender and another .....Petitioners

Versus

Ram Avtar and others .....Respondents

CORAM **HON'BLE MR. JUSTICE VINEY MITTAL**

PRESENT Mr. Arun Yadav ,Advocate
appellants.

VINEY MITTAL , J(Oral)

The defendants are the appellants before this Court. In a suit for injunction filed by plaintiff Ram Avtar, they have lost concurrently before the two Courts below.

The plaintiff claimed that he along-with proforma defendants are joint owners in possession of the plot in question. However, the contesting defendants were trying to encroach upon the said land without any justification.

The defendants contested the suit. It was claimed by them that defendant no.1 was not in possession of Khasra no.116, as claimed by the plaintiff but was in possession of Khasra No. 117.

Both the Courts below have relied upon the demarcation report Ex. PW3/3 and the statement of Kanugo PW3 Sher Singh to hold that plaintiff was in actual possession of Khasra no.116 and it was the said land,which was sought to be encroached by the defendant no.1. Consequently suit filed by the plaintiff was decreed by the trial Court. The defendant was directed to remove the encroachment as described in the report of local commissioner. An appeal filed by the defendants was also dismissed by the Appellate Court. The findings of the trial Court were

affirmed.

Learned counsel for the appellants has contended that the demarcation report Ex. PW3/3 was ex-parte report and as such could not be relied upon.

However, I do not find any merit in the aforesaid contention. Both the Courts below have relied upon the statement of PW3 to hold that defendants were present at the time of demarcation but had refused to sign the said report.

Nothing has been shown that the findings recorded by the two Courts below suffer from any infirmity or are contrary to law.

No question of law, much less, any substantial question of law arises in the present appeal.

Dismissed.

January 29, 2007 **(VINEY MITTAL)**
mamta **JUDGE**